

## AMENDING THE NATIONAL LABOR RELATIONS ACT

---

AUGUST 16 (legislative day, AUGUST 1), 1951.—Ordered to be printed

---

Mr. HUMPHREY, from the Committee on Labor and Public Welfare,  
submitted the following

## REPORT

[To accompany S. 1959]

The Committee on Labor and Public Welfare, to whom was referred the bill (S. 1959) to amend the National Labor Relations Act, as amended, and for other purposes, having considered the same, report favorably thereon with amendments, and recommend that the bill, as reported, do pass.

## THE PURPOSE OF THE BILL

This bill is designed to dispense with the holding of what have proved to be wholly unnecessary elections under section 9 (e) of the present act, and to meet serious related problems arising out of a recent Supreme Court decision.

The bill dispenses with the necessity for further elections under section 9 (e) to authorize the making of union shop agreements. Such elections have imposed a heavy administrative burden on the Board, have involved a large expenditure of funds, and have almost always resulted in a vote favoring the union shop. (See *National Labor Relations Board Fourteenth Annual Report* (Government Printing Office, 1950), pp. 6-7, 8 fol.) The bill provides, however, that a labor organization shall not be authorized to conclude a union shop agreement unless, within the preceding 12-month period, it has received notice from the Board that it is in full compliance with section 9 (f), (g), and (h), so that, at the time the union shop agreement becomes effective, the union is eligible to invoke the Board's processes under section 9 (f), (g), and (h). The provision for such notice affords a simple means of enabling all parties concerned to know conclusively whether the requirements of section 9 (f), (g), and (h) have been met.

While discontinuing the mandatory election procedure which has proved expensive, burdensome, and unnecessary, the bill continues to safeguard employees against subjection to union shop agreements which a majority disapproves. To accomplish this it is provided that

the Board shall conduct elections on the petition of 30 percent or more of the employees in a bargaining unit to determine whether the union's authority to enter into a union shop arrangement shall be rescinded.

The bill further deals with situations created by the decision of the Supreme Court in *National Labor Relations Board v. Highland Park Co.* (341 U. S. 322), holding that the Congress of Industrial Organizations and the American Federation of Labor are "national or international labor organizations" within the meaning of section 9 (h) of the National Labor Relations Act, as amended. This decision, reversing the position which had been taken by the National Labor Relations Board (see *Northern Virginia Broadcasters*, 75 N. L. R. B. 11), invalidates representation certificates issued under section 9 (c), and union shop authorization certificates issued under section 9 (e) in cases where the Board applied its rule that it was unnecessary for the American Federation of Labor and the Congress of Industrial Organizations to comply with sections 9 (f), (g), and (h) in order to qualify affiliated unions. The Board estimates that the decision will necessitate the immediate holding of repeat elections in about 4,700 union shop cases alone, funds for which are not provided in the Board's appropriation.

Since all the officers of the American Federation of Labor signed the affidavits by November 7, 1947, and all the officers of the Congress of Industrial Organizations signed the affidavits by December 22, 1949, and these organizations have continuously thereafter remained in compliance with sections 9 (f), (g), and (h), it seems wholly unnecessary and wasteful to hold these elections. The purpose of the proposed bill is to validate the elections and other actions taken by the Board.

#### THE EFFECT OF THE BILL

The amendment will protect parties who have acted in reliance upon certificates issued by the Board against possible charges of unfair labor practices. It will also stabilize collective bargaining relationships governed by Board certificates and afford to such relationships all the protection of the statute. At the same time the amendment, by a proviso, prohibits the imposition of liability upon any person who, prior to the effective date of the amendment, failed to honor a certificate invalid under the Highland Park decision. The bill does not, however, excuse disobedience to court judgments and decrees which became final prior to the effective date of the amendment.

#### CHANGES IN EXISTING LAW

In accordance with subsection (4) of rule XXIX of the Standing Rules of the Senate, the changes made in existing law by the bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

#### NATIONAL LABOR RELATIONS ACT

##### SECTION 8 (A)

(3) by discrimination in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization: *Provided*, That nothing in this Act, or in any other

statute of the United States, shall preclude an employer from making an agreement with a labor organization (not established, maintained, or assisted by any action defined in section 8 (a) of this Act as an unfair labor practice) to require as a condition of employment membership therein on or after the thirtieth day following the beginning of such employment or the effective date of such agreement, whichever is the later, (i) if such labor organization is the representative of the employees as provided in section 9 (a), in the appropriate collective-bargaining unit covered by such agreement when made; and (ii) if, following the most recent election held as provided in section 9 (e) the Board shall have certified that at least a majority of the employees eligible to vote in such election have voted to authorize such labor organization to make such an agreement: *and has at the time the agreement was made or within the preceding 12 months received from the Board a notice of compliance with sections 9 (f), (g), and (h) and (ii) unless following an election held as provided in section 9 (e) within one year preceding the effective date of such agreement, the Board shall have certified that at least a majority of the employees eligible to vote in such election have voted to rescind the authority of such labor organization to make such an agreement: Provided further, That no employer shall justify any discrimination against an employee for non-membership in a labor organization (A) if he has reasonable grounds for believing that such membership was not available to the employee on the same terms and conditions generally applicable to other members, or (B) if he has reasonable grounds for believing that membership was denied or terminated for reasons other than the failure of the employee to tender the periodic dues and the initiation fees uniformly required as a condition of acquiring or retaining membership:*

## SECTION 9

(e) (1) *Upon the filing with the Board by a labor organization, which is the representative of employees as provided in section 9 (a), of a petition alleging that 30 per centum or more of the employees within a unit claimed to be appropriate for such purposes desire to authorize such labor organization to make an agreement with the employer of such employees requiring membership in such labor organization as a condition of employment in such unit, upon an appropriate showing thereof the Board shall, if no question of representation exists, take a secret ballot of such employees, and shall certify the results thereof to such labor organization and to the employer.*

*[(2) Upon the filing with the Board, by 30 per centum or more of the employees in a bargaining unit covered by an agreement between their employer and a labor organization made pursuant to section 8 (a) (3) (ii), of a petition alleging they desire that such authority be rescinded, the Board shall take a secret ballot of the employees in such unit, and shall certify the results thereof to such labor organization and to the employer.] Upon the filing with the Board, by 30 per centum or more of the employees in a bargaining unit covered by an agreement between their employer and a labor organization made pursuant to section 8 (a) (3), of a petition alleging they desire that such authority be rescinded, the Board shall take a secret ballot of the employees in such unit and certify the results thereof to such labor organization and to the employer.*

*[(3)] (2) No election shall be conducted pursuant to this subsection in any bargaining unit or any subdivision within which, in the preceding twelve-month period, a valid election shall have been held.*

(f) No investigation shall be made by the Board of any question affecting commerce concerning the representation of employees, raised by a labor organization under subsection (c) of this section, *[no petition under section 9 (e) (1) shall be entertained,]* and no complaint shall be issued pursuant to a charge made by a labor organization under subsection (b) of section 10, unless such labor organization and any national or international labor organization of which such labor organization is an affiliate or constituent unit (A) shall have prior thereto filed with the Secretary of Labor copies of its constitution and bylaws and a report, in such form as the Secretary may prescribe, showing—

(1) the name of such labor organization and the address of its principal place of business;

(2) the names, titles, and compensation and allowances of its three principal officers and of any of its other officers or agents whose aggregate compensation and allowances for the preceding year exceeded \$5,000, and the amount of the compensation and allowances paid to each such officer or agent during such year;

(3) the manner in which the officers and agents referred to in clause (2) were elected, appointed, or otherwise selected;

(4) the initiation fee or fees which new members are required to pay on becoming members of such labor organization;

(5) the regular dues or fees which members are required to pay in order to remain members in good standing of such labor organization;

(6) a detailed statement of, or reference to provisions of its constitution and bylaws showing the procedure followed with respect to, (a) qualification for or restrictions on membership, (b) election of officers and stewards, (c) calling of regular and special meetings, (d) levying of assessments, (e) imposition of fines, (f) authorization for bargaining demands, (g) ratification of contract terms, (h) authorization for strikes, (i) authorization for disbursement of union funds, (j) audit of union financial transactions, (k) participation in insurance or other benefit plans, and (l) expulsion of members and the grounds therefor;

and (B) can show that prior thereto it has—

(1) filed with the Secretary of Labor, in such form as the Secretary may prescribe, a report showing all of (a) its receipts of any kind and the sources of such receipts, (b) its total assets and liabilities as of the end of its last fiscal year, (c) the disbursements made by it during such fiscal year, including the purposes for which made; and

(2) furnished to all of the members of such labor organization copies of the financial report required by paragraph (1) hereof to be filed with the Secretary of Labor.

(g) It shall be the obligation of all labor organizations to file annually with the Secretary of Labor, in such form as the Secretary of Labor may prescribe, reports bringing up to date the information required to be supplied in the initial filing by subsection (f) (A) of this section, and to file with the Secretary of Labor and furnish to its members annually financial reports in the form and manner prescribed in subsection (f) (B). No labor organization shall be eligible for certification under this section as the representative of any employees, [no petition under section 9 (e) (1) shall be entertained,] and no complaint shall issue under section 10 with respect to a charge filed by a labor organization unless it can show that it and any national or international labor organization of which it is an affiliate or constituent unit has complied with its obligation under this subsection.

(h) No investigation shall be made by the Board of any question affecting commerce concerning the representation of employees, raised by a labor organization under subsection (c) of this section, [no petition under section 9 (e) (1) shall be entertained,] and no complaint shall be issued pursuant to a charge made by a labor organization under subsection (b) of section 10, unless there is on file with the Board an affidavit executed contemporaneously or within the preceding twelve-month period by each officer of such labor organization and the officers of any national or international labor organization of which it is an affiliate or constituent unit that he is not a member of the Communist Party or affiliated with such party, and that he does not believe in, and is not a member of or supports any organization that believes in or teaches, the overthrow of the United States Government by force or by any illegal or unconstitutional methods. The provisions of section 35 A of the Criminal Code shall be applicable in respect to such affidavits.

*SEC. 18. No petition entertained, no investigation made, no election held, and no certification issued by the National Labor Relations Board, under any of the provisions of section 9 of the National Labor Relations Act, as amended, shall be invalid by reason of the failure of the Congress of Industrial Organizations to have complied with the requirements of section 9 (f), (g), or (h) of the aforesaid Act prior to December 22, 1949, or by reason of the failure of the American Federation of Labor to have complied with the provisions of section 9 (f), (g), or (h) of the aforesaid Act prior to November 7, 1947: Provided, That no liability shall be imposed under any provision of this Act upon any person for failure to honor any election or certificate referred to above, prior to the effective date of this amendment: Provided further, however, That this proviso shall not have the effect of setting aside or in any way affecting judgments or decrees heretofore entered under section 10 (e) or (f) and which have become final.*